

Service Date: July 20, 1999

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

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IN THE MATTER OF CenturyTel of Montana	)	UTILITY DIVISION
Inc.'s request for Authority to Implement 2-PIC	)	
Dialing Parity on a State Boundary Basis	)	DOCKET NO. D99.4.108
	)	
	)	ORDER NO. 6191

**FINAL ORDER**

**INTRODUCTION AND PROCEDURAL BACKGROUND**

1. On April 22, 1999, CenturyTel of Montana Inc. (Century) filed its Application for Approval of its IntraLATA Equal Access Implementation Plan (Plan) with the Montana Public Service Commission (Commission). Century's Plan requests approval of the procedures and process it intends to use to implement 1+ intraLATA dialing parity (also known as equal access).

2. Century filed its Plan in response to the Federal Communication Commission's (FCC) order adopted on March 19, 1999 (See *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Order, CC Docket No. 96-98, adopted March 19, 1999, released March 23, 1999). The Order requires LECs to implement intraLATA dialing parity via the 2-PIC carrier selection methodology without defaulting any customer to a carrier they have not affirmatively selected. Additionally, LECs must implement dialing parity within thirty (30) days of receiving state commission approval of its plan.

3. The Commission has adopted rules for intraLATA dialing parity implementation in Montana. 1998 Mont. Admin. Reg., No. 7, at 983-1003 (April 16, 1998) (the "dialing parity

rules” or “rules”). *See* ARM 38.5.4101 through 38.5.4120. ARM 38.5.4120 requires Century to implement intraLATA dialing parity pursuant to a Commission-approved plan.

4. ARM 38.5.4120(1) allows interested parties a reasonable opportunity to comment on a LEC’s intraLATA equal access plan. On May 4, 1999, the Commission issued a Notice of Filing and Opportunity to Comment allowing interested persons to comment and/or request a hearing on Century’s proposed intraLATA equal access implementation Plan. No persons filed comments. On May 10, 1999, staff issued discovery requesting a more detailed explanation and suggested modifications to Century’s Plan. Responses to staff’s discovery request were received on June 4, 1999. On May 14, 1999, Century filed an “Amended Plan” incorporating many of staff’s recommended modifications.

5. On June 8, 1999, the Commission approved Century’s dialing parity implementation Plan with a delayed effective date of June 22, 1999.

6. Following a review of Century’s Plan the Commission makes the following findings and conclusions.

#### **FINDINGS OF FACT AND COMMISSION DECISION**

7. The Commission established the intraLATA equal access implementation rules “to provide guidelines and procedures for the commission to carry out its duties pursuant to the Federal Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).” ARM 38.5.4101, entitled “SCOPE AND PURPOSE OF RULES.” Subsection (2) provides further indication of purpose in adopting the rules:

...The commission imposes this subchapter to encourage competitive entry, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers while ensuring that the rates charged and services rendered by telecommunications services providers are just and reasonable.

The rules were adopted after giving opportunity to comment to all interested parties. They reflect a careful, reasoned consideration of all comments received, both in response to AT&T's original petition for rulemaking and in response to later formal rulemaking inquiries. They were adopted specifically for implementing intraLATA equal access in Montana.

8. ARM 38.5.4120(1) states that ILECs "shall file their toll dialing parity plans carrying out the intraLATA equal access presubscription implementation rules set forth in ARM 38.5.4101 through 38.5.4116." ARM 38.5.4120(1) also provides that interested parties who wish to comment on a LEC's toll dialing parity plan shall have a reasonable opportunity to do so.

9. ARM 38.5.4120 provides that Century's Plan must describe how ARM 38.5.4101 through 38.5.4116 will be carried out and include information addressing the following:

- (a) detailed information explaining how and when carriers will be notified of the implementation schedule;
- (b) the language to be used in and the manner of distribution of, the customer notification letter;
- (c) a description of Century's anticipated cost of implementation, including Century's specific implementation costs, the vehicle that Century intends to use to recover implementation costs, and the cost recovery time frame; and
- (d) a description of Century's proposed business office practices and sample scripts that demonstrate how its business office personnel will handle customer-initiated business office contacts with Century in its role as a local exchange provider in a competitively neutral manner following implementation.

We address the general subtopics of intraLATA equal access implementation with respect to Century's Plan below:

**A. Part II. Implementation Schedule**

10. Century's implementation date for all its exchanges is July 16, 1999. Century will implement via the full "2-PIC" carrier selection methodology required by ARM 38.5.4103(2). Century will implement on a statewide basis rather than LATA basis. This

method allows customers to select a telecommunications provider for their interstate toll calling and the same or different telecommunications provider for their intrastate toll calling. Since September 1990, Century has been providing “1-PIC” dialing parity for all its customers for all types of toll traffic. 1-PIC allows a customer to utilize one carrier for all their toll calling. The Commission finds that statewide implementation of dialing parity via a statewide 2-PIC method benefits Century’s customers by allowing a simple easy-to-understand modification to the current 1-PIC method. Therefore, the Commission finds that Century’s request to implement dialing parity on a statewide basis is in the public interest and does not discriminate against any telecommunications provider. All residential, business and payphone customers will be offered intrastate equal access via this 2-PIC method.

**B. Part III. Customer Lists and Carrier Notification Procedures**

11. *Carrier notification:* ARM 38.5.4120(3) requires that Century provide notice to registered interexchange carriers no less than 120 days prior to the actual implementation date. The notice must include the implementation schedule, terms and conditions of participation and ordering procedures. All carriers wishing to participate in presubscription must respond to Century within 30 days. Century may only allow participation by registered telecommunications providers.

12. The Commission granted Century’s petition to shorten the time IXCs must respond to its request to participate from the required thirty (30) days to fifteen (15) days. This shortened timeframe was required to allow Century to meet the dialing parity requirements pursuant to the Commission’s equal access rules found at ARM 38.5.4101 *et seq.* and the FCC’s March 23, 1999 Order.

13. On May 18, 1999, the Commission approved the process Century used to inform IXCs of its Plan. The Commission's approval of carrier notification permitted Century to notify registered carriers by means of a Commission-established electronic mailing list or "listserve". The Commission's listserve includes carriers who have registered on the Commission's website as required by Montana law and provided the Commission with an e-mail address. Century elected to use the electronic listserve. As a condition of using the listserve, the Commission required Century to mail its carrier notification letter by first class mail to registered carriers who could not be contacted electronically.

14. *Customer lists:* ARM 38.5.4105(2) requires a LEC to make available to all registered carriers that intend to offer equal access a complete list of the LEC's customers by name, address and phone number within 45 days of receipt of a BFR. The Commission requires that Century make available such list, upon request, to all registered carriers that intend to offer intrastate equal access. Charges for such list shall be cost based and nondiscriminatory. Century will charge \$0.05 per customer record. In response to PSC-002(b), Century has made available such list as of June 7, 1999.

15. *PIC change requests:* ARM 38.5.4116(1)(e) requires LECs to accept letters of authorization (LOAs) within the 60 days prior to implementation. Century is required to begin accepting LOAs and customer requests for an intraLATA carrier selection no later than 60 days prior to implementation. In the case of multiple LOA submissions, the last dated LOA shall be processed. Century is required to accept and process LOAs that conform to ARM 38.5.3801 through ARM 38.5.3810, the emergency slamming rules adopted by the Commission in Docket No. L.99.1.1-RUL, and §69-3-1304, MCA. LOAs will be accepted no later than June 2, 1999.

**C. Part IV: Customer Notifications, Education, and Safeguards**

16. Customer notification is addressed in several of the Commission's rules. ARM 38.5.4120(1)(b) states that a LEC's plan must describe how notification to end users will be carried out and must include the language the LEC will use in its customer notification letter and describe the manner of distribution of such letter.

17. ARM 38.5.4105(4) requires all informational materials, forms and scripts to be "complete, clear and unbiased." It further requires local exchange carriers to promptly make any changes required by the Commission before using them. Pursuant to ARM 38.5.4104 and at least 30 days prior to its scheduled implementation, Century must provide written notification to subscribers that describes intrastate dialing parity and explains presubscription procedures. Information provided pursuant to ARM 38.5.4104 shall also inform customers with existing interstate PIC freeze on their accounts that their freeze will extend to their existing intrastate toll carrier until the end users take action to change.

18. *Existing customer notification:* Century's Plan states that it will provide written notification to its customers describing intrastate dialing parity and explaining presubscription procedures. Century attached as Exhibit A its proposed format to notify customers. Century states that it will provide customer notification via direct mail or as a "bill stuffer" prior to June 22, 1999. The notice also informs customers that if they have a current interstate PIC freeze that the freeze will extend to their intrastate carrier at the time of conversion, that affirmative action is needed for a customer to change their current carrier(s), that Century will waive for a period of 120 days after conversion the PIC change charge, and if requested, Century will make any PIC change selections for the customer. Century's Plan for notifying existing customers is consistent with Commission rules and its written notification contains a good explanation of intrastate 1+ presubscription that should help its customers understand this often-confusing concept.

19. *New customer notification:* Century's Plan provides that all new customers who commence local service after the mailing to existing customers and before equal access presubscription is implemented shall be provided information from Century about their carrier selection options at the time they sign up for local service.

20. The notice will inform customers that they may select both their primary interstate and intrastate carriers or be assigned "no-PIC" status. Per previous Commission decisions, Century will waive charges for an intrastate PIC selection for a period of 30 days after new service is installed. The Commission finds this to be in the public interest.

21. *Waiver period:* ARM 38.5.4111(1) states that "no charge shall be imposed for a customer's initial selection of a primary intraLATA carrier. Each LEC shall allow customers to change their selection of a primary intraLATA carrier one time only at no charge within 90 days following implementation of intraLATA dialing parity in an exchange."

22. Century's Plan states that no charge will be imposed for 120 days following customer notification for a customers initial selection of an intrastate PIC. Customers may elect to change to another intrastate PIC once during the same 120 day period at no charge. Subsequent changes will be assessed pursuant to ARM 38.5.4111. This waiver period complies with ARM 38.5.4111.

23. *PIC charges:* ARM 38.5.4111 states that PIC change charges shall be "the same as those imposed for changing interLATA carriers." Century will waive for a period 120 days any PIC change charges for both a customers initial intrastate PIC selection and an additional intrastate PIC selection during the 120 day period. All subsequent PIC changes will be assessed an intrastate Presubscription Change Charge pursuant to ARM 38.5.4111. If a customer wishes

to change his/her intrastate and interstate PIC simultaneously, the customer will be assessed a single PIC change charge pursuant to ARM 38.5.4111(2).

24. *Customer Safeguards:* ARM 38.5.4116 provides for some safeguards that apply to the business office practices LECs will use when they implement intraLATA equal access. All customers who have an interLATA PIC freeze on their account will have that PIC freeze placed on their intraLATA service as well. Century will follow Montana statutes and administrative rules with regard to “slamming” and obtaining the required authorizations for PIC changes. The notice also explains presubscription procedures and advises end users that they may change their intraLATA PIC free of charge during the first 120 days following implementation.

25. Century’s notice to end users contains sufficient information to educate customers on intraLATA dialing parity and procedures for requesting a PIC change.

26. *Business office practices:* ARM 38.5.4116 provides for safeguards to ensure that the development of intraLATA competition will not be impeded by LEC practices following equal access presubscription. Subsection (1)(a) requires that Century’s customer information and procedures used to provide new customers information about carrier selection options when they sign up for service be competitively neutral and approved by the Commission prior to their use.

27. Century retained the telemarketing firm of Mid-West TeleMark International to handle all its intrastate equal access calls. The firm will act as a third party in processing and handling customer initiated calls for CenturyTel. This relationship is explained in more detail below.

28. For all customer-initiated contacts regarding local service matters, ARM 38.5.4116(1)(b) includes important safeguards. It provides, “When handling customer-initiated



contacts regarding local service matters such as a change in service, [LEC] business office personnel may not engage in promotional efforts for the local exchange carrier's toll service offerings." Subsection (1)(c) further provides that when a customer contacts a LEC's business office to change the PIC from the LEC to a competitor, "the transaction must be handled in a neutral manner (i.e., in the same manner as a PIC change from one competitor to another)."

29. Century states that it will handle all customer-initiated contacts for PIC changes in a neutral manner. Further, many of the Commission's previously expressed concerns about contact handling by local exchange carriers who provide intraLATA toll service apply to Century because intraLATA toll service is provided by an affiliate, CenturyTel Long Distance. Therefore, the Commission imposes some requirements for these contacts.

30. Century is required to provide, in random order, the names of all carriers providing intraLATA interexchange service in its area. The random list shall be scrambled at least once per month.

31. ARM 38.5.4104(4) requires that informational material, forms and scripts shall be clear, concise, and unbiased. Century is required to submit the scripts its customer service representatives will refer to and will be trained to use to discuss intraLATA dialing parity for new service requests and customer contacts for changes in service other than "general service" contacts. Century did not initially file a script the telemarketing business representatives were to use for customer contacts. Rather, Century submitted an outline that its customer representatives were to use for customer contacts. However, on May 17, 1999, Century submitted the following script.

32. "CenturyTel\_\_\_\_\_, speaking, How can I help you?"

“Currently one long distance telephone service provider handles both your in-state and out-of-state toll calling. You are now able to choose a different toll provider to handle the toll calls you place and complete within the State of Montana.”

You may use the same toll provider you use for out-of-state toll calls, if available, or choose a different toll provider to handle your in-state toll calls. You do not need to use the same toll provider for both. If you are not ready to make a choice today, your current long distance toll provider will continue to handle both your in-state and out-of-state toll calling until you decide to make a change.”

“I have a list of long distance toll companies available, if you would like I will read that list to you and would be happy to place your order today.”

33. The Commission recognizes that a script will not be appropriate for all calls.

Some contacts will require that Century’s representatives adapt their conversation based on individual circumstances. The script provides the necessary information, however, and as long as the representative conveys the information provided for in the script, such deviations are acceptable.

34. The Commission has imposed marketing restrictions for local exchange carriers who provide intraLATA toll. Century currently provides long distance service to its customers through an affiliate – CenturyTel Long Distance. Therefore, reasonable LEC restrictions related to marketing on customer-initiated calls to Century’s business office apply. Previously, the Commission has concluded it is reasonable to prohibit a LEC from initiating marketing and promotional activities for its intraLATA services on contacts for new service, transfers of service and number changes. The same restrictions should be placed on Century’s business office practices for customer initiated calls.

**D. Part V: Costs Recovery**

35. ARM 38.5.4120 requires Century’s Plan to describe the anticipated cost of implementation, including its specific intraLATA presubscription costs, the vehicle that it intends to use to recover them, and the time frame for recovery.

36. Century's Plan states that it will incur incremental costs to implement intraLATA dialing parity. Major cost categories include: (1) switching upgrades to allow 2-PIC presubscription, (2) IS systems setup, (3) customer notification, and (4) employee training. All these costs are recoverable pursuant to ARM 38.5.4115.

37. On June 21, 1999, Century filed to recover its cost to implement dialing parity. Included with the filing was a cost study demonstrating the amount Century requests to recover and the method it intends to use. Century has identified a rate equal to \$0.001921 to be assessed to all interexchange carriers on the total originating intrastate access minutes of use for each provider.

38. On July 2, 1999, the Commission issued a Notice of Opportunity for Hearing on Century's cost recovery Plan. Parties with proper standing and affected by the rate increase respond are to respond to the Commission by 5 p.m., July 20, 1999. The Montana Consumer Counsel was also issued the notice.

39. The Commission has not yet determined the amount Century may recover to implement intrastate dialing parity. Costs and recovery of such will be determined at a later date.

### **CONCLUSIONS OF LAW**

1. The Commission has authority to supervise, regulate and control public utilities. Section 69-3-102, MCA. Century is a public utility offering regulated telecommunications services in the State of Montana. Section 69-3-101, MCA.

2. The Commission has authority to do all things necessary and convenient in the exercise of the powers granted to it by the Montana Legislature and to regulate the mode and manner of all investigations and hearings of public utilities and other parties before it. Section 69-3-103, MCA.

3. The Montana Public Service Commission is the state agency charged with regulating telecommunications carriers in Montana and properly exercises jurisdiction in this Docket pursuant to Title 69, Chapter 3, MCA.

4. Adequate public notice and an opportunity to be heard has been provided to all interested parties in this Docket, as required by the Montana Administrative Procedure Act, Title 2, Chapter 4, MCA.

### **ORDER**

THEREFORE, based on the foregoing, IT IS ORDERED that Century's intraLATA dialing parity implementation Plan is approved as discussed herein.

DONE AND DATED this 8th day of June, 1999, by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

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DAVE FISHER, Chairman

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NANCY MCCAFFREE, Vice Chair

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BOB ANDERSON, Commissioner

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GARY FELAND, Commissioner

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BOB ROWE, Commissioner

ATTEST:

Kathlene M. Anderson  
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision.  
A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.